

STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE

In re: Robert S. Baska, M.D.

Docket Nos.: MPS 38-0501  
MPS 39-0501; MPS 60-0801

MOTION TO CONDUCT PROCEEDINGS  
PURSUANT TO PROTECTIVE STATUTORY PROVISIONS

COMES NOW Petitioner, the State of Vermont, by and through Attorney General William H. Sorrell, and moves the Board of Medical Practice to conduct all proceedings related to the charges and disciplinary action in the above-captioned matters consistent with the statutory requirements of 3 V.S.A. § 131(c); 26 V.S.A. § 1360(c); and 26 V.S.A. § 1443(c). For the reasons set forth below and such others as may be presented at a later time, the State moves all information protected by statute be disclosed only as set forth below.

I. Statutory Protection of Victim's Identity and Medical Records.

1. The State's Specification of Charges as to Respondent Baska include allegations of sexual misconduct by him. The victim, a former patient of Respondent, has requested, pursuant to statute, 26 V.S.A. § 1360(c), that her identity and the confidentiality of her medical records be protected from public disclosure. Thus, the State moves that all aspects of the disciplinary proceedings against Dr. Baska be conducted so as to afford these protections to the victim, as provided by statute.

2. The State moves that information which would tend to identify or permit identification of the victim not be subject to public disclosure, pursuant to 26 V.S.A. § 1360(c), and that the instant disciplinary proceedings be conducted consistent with the mandatory protective provisions of 26 V.S.A. § 1360(c).

## II. Statutory Protection of Confidential Peer Review Information.

3. The State's Specification of Charges against Respondent Baska are derived in substantial measure from confidential and privileged information of a hospital "peer review committee". Such information was obtained by the State in response to subpoena. See 26 V.S.A. § 1443(a) & (b). The State's subpoena demand was made following receipt by the Board of Medical Practice of a report that disciplinary action had been taken against Respondent's hospital privileges. 3 V.S.A. § 128(a) & (c) (mandatory hospital reporting requirement; confidentiality requirements). Such peer review information "may be used" by the Board for disciplinary purposes but, pursuant to statutory requirements, "shall not be subject to public disclosure." 26 V.S.A. § 1443(b) & (c).

4. The State moves that the instant disciplinary proceedings be conducted consistent with the statutory provisions of 26 V.S.A. § 1443(c) and that all such "peer review" information be protected from public disclosure as mandated by statute.

## III. Confidentiality of Disciplinary Matters, 3 V.S.A. § 131(c) & (d).

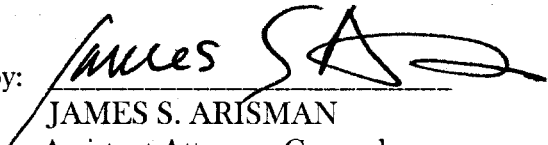
5. The State moves that all dissemination of information related to the instant matter under the provisions of 3 V.S.A. § 131(c) & (d) be subject to the protections required by statute, as set forth above.

WHEREFORE, petitioner, the State of Vermont, respectfully moves the Board of Medical Practice to grant the State's motion, as set forth above, and to conduct all proceedings in these matters pursuant to the protective statutory provisions as to confidentiality of 3 V.S.A. § 128(c); and 26 V.S.A. §§ 1360(c) & 1443(c).

Dated at Montpelier, Vermont this 28<sup>th</sup> day of January 2001.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

by:   
JAMES S. ARISMAN  
Assistant Attorney General